

ASSEMBLY BILL

No. 1163

Introduced by Assembly Member Yee

February 22, 2005

An act to amend Section 9875 of, to add Sections 9875.3 and 9875.4 to, and to repeal and add Section 9875.1 of, the Business and Professions Code, relating to motor vehicle replacement parts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1163, as introduced, Yee. Motor vehicle replacement parts.

Existing law regulates the use of motor vehicle replacement parts, and prohibits an insurer from requiring the use of nonoriginal equipment manufacturer aftermarket crash parts, as defined, in the repair of an insured's motor vehicle, unless the consumer is advised in a disclosure document of the use of the part. A violation of those provisions subjects an insurer to specified enforcement actions by the Insurance Commissioner.

This bill would instead require an insurer or repair facility to notify a consumer of the use of crash parts supplied by the manufacturer of the vehicle or certified aftermarket crash parts, as defined. The bill would create a presumption that a noncar company certified aftermarket crash part is of like kind and quality to a part manufactured by the vehicle manufacturer. The bill would prohibit a person from imposing a penalty upon a person leasing or financing a vehicle who repairs that vehicle using certified aftermarket crash parts.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The purposes of this act are as follows:

(a) To protect consumers by encouraging collision repair shops to use only car company or certified aftermarket parts.

(b) To require notification by the collision repair shop or insurance estimate as to the use of certified aftermarket parts.

(c) To require notification regarding identification by mechanized processes or systems of all crash parts, including car company or certified aftermarket parts, used to repair the vehicle.

SEC. 2. Section 9875 of the Business and Professions Code is amended to read:

9875. As used in this chapter, the following definitions shall apply:

(a) “Insurer” includes an insurance company and any person authorized to represent the insurer with respect to a claim.

(b) “Aftermarket crash part” means a ~~replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels~~ motor vehicle replacement part manufactured by other than the original equipment manufacturer, for any of the nonmechanical parts made of sheet metal, plastic fiberglass, or a similar material, that generally constitute the exterior of a motor vehicle. This includes outer panels, hoods, fenders, doors, trunk lids, and exterior coverings of bumpers, but does not include windows or hubcaps. These categories may be expanded as new certification standards are developed by entities qualified under subdivision (e).

(c) ~~“Nonoriginal equipment manufacturer (Non-OEM) aftermarket crash part” means aftermarket crash parts not made for or by the manufacturer of the motor vehicle~~ “Car company” means a motor vehicle manufacturer or distributor that produces or markets crash parts under its own name for use in motor vehicles that it manufactures or distributes under its own name.

(d) “Noncar company” or “independent manufacturer” means a manufacturer or distributor that produces or markets aftermarket crash parts under its own name for use in motor vehicles that it does not manufacture or distribute.

1 (e) “Independent third-party certifier” means a certifying
2 entity that is registered with the Director of Consumer Affairs
3 and meets all of the following requirements:

4 (1) Accreditation to the International Organization for
5 Standardization (ISO) Guide 25: General requirements for the
6 competence of calibration and testing laboratories for the
7 automotive industry.

8 (2) Accreditation to the International Organization for
9 Standardization (ISO) Guide 62: General requirements for bodies
10 operation assessment and certification/registration of quality
11 systems for the automotive industry.

12 (3) Formal accreditation by the American National Standards
13 Institute (ANSI) as a standards developer.

14 (f) “Certified aftermarket crash part” means an aftermarket
15 crash part for which a certification has been issued by an
16 independent third-party certifier.

17 A certified aftermarket crash part shall be warranted by the
18 manufacturer, distributor, or the insurer as being equivalent to
19 or exceeding the part placed on the vehicle during initial
20 assembly in terms of fit, finish, quality, and performance.

21 SEC. 3. Section 9875.1 of the Business and Professions Code
22 is repealed.

23 ~~9875.1. No insurer shall require the use of nonoriginal~~
24 ~~equipment manufacturer aftermarket crash parts in the repair of~~
25 ~~an insured's motor vehicle, unless the consumer is advised in a~~
26 ~~written estimate of the use of nonoriginal equipment~~
27 ~~manufacturer aftermarket crash parts before repairs are made. In~~
28 ~~all instances where nonoriginal equipment manufacturer~~
29 ~~aftermarket crash parts are intended for use by an insurer:~~

30 ~~(a) The written estimate shall clearly identify each such part~~
31 ~~with the name of its nonoriginal equipment manufacturer or~~
32 ~~distributor.~~

33 ~~(b) A disclosure document containing the following~~
34 ~~information in 10-point type or larger type shall be attached to~~
35 ~~the insured's copy of the estimate: “This estimate has been~~
36 ~~prepared based on the use of crash parts supplied by a source~~
37 ~~other than the manufacturer of your motor vehicle. Any~~
38 ~~warranties applicable to these replacement parts are provided by~~
39 ~~the manufacturer or distributor of the parts, rather than by the~~
40 ~~original manufacturer of your vehicle.”~~

1 SEC. 4. Section 9875.1 is added to the Business and
2 Professions Code, to read:

3 9875.1. In all instances, the written estimate prepared by an
4 insurer or repair facility, or both, shall meet the following
5 requirements:

6 (a) Clearly identify the manufacturer of each part so long as
7 the manufacturer can be identified by automated processes or
8 through the manufacturer's warranty.

9 (b) A notification shall be attached to, or included in, the
10 estimate and shall contain the following information in 10-point
11 type or larger type:

12 "THIS ESTIMATE HAS BEEN PREPARED BASED ON
13 THE USE OF CRASH PARTS SUPPLIED BY THE
14 MANUFACTURER OF YOUR VEHICLE OR CERTIFIED
15 AFTERMARKET CRASH PARTS SUPPLIED BY AN
16 INDEPENDENT MANUFACTURER. ALL AFTERMARKET
17 CRASH PARTS USED IN THE PREPARATION OF THIS
18 ESTIMATE ARE WARRANTED BY THE MANUFACTURER
19 OR DISTRIBUTOR OF THE PARTS AND THE INSURER
20 FOR WHICH THE ESTIMATE WAS WRITTEN."

21 SEC. 5. Section 9875.3 is added to the Business and
22 Professions Code, to read:

23 9875.3. A person, including an individual, company, or agent,
24 may not impose a penalty upon a person leasing or financing a
25 vehicle who repairs the vehicle using certified aftermarket crash
26 parts.

27 SEC. 6. Section 9875.4 is added to the Business and
28 Professions Code, to read:

29 9875.4. Noncar company certified aftermarket crash parts
30 used to repair a motor vehicle shall be presumed to be of like
31 kind and quality to car company parts.